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FACSIMILE TRANSMISSION SECURITY COVER SHEET

To:

The United States Patent Office

Crystal City, Virginia Group Art Unit 2611 Attention: Examiner Bui

23831 659 7301

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From:

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Re:

Submission of Third Disclosure Statement

for USSN 09/688,997

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PATENT HMD2000-1-CIPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE CEIVED

CENTRAL FAX CEYTER

Applicants: Thomas N. Giaccherini, et al.

SEP 0 2 2004

Date 2 Sept A.

Examiner: Bui

Serial No.: 09/688,997

Group Art Unit: 2611

Title:

Method for Utilizing

Excess Communications Capacity

Filed:

16 October 2000

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. SECTION 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Postal Service in accordance with the provisions of 37 CFR Section 1.8 on the date indicated below and is addressed to The Commissioner for Patents, Mail Stop Amendment, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Thomas N. Giaccherini, Registration No. 31,075

THIRD DISCLOSURE STATEMENT

The Commissioner for Patents Mail Stop Amendment P.O. Box 1450 Alexandria, Virginia 22313-1450 Sir:

The Applicants submit this Third Disclosure Statement and completed Form PTO/SB/08A for their Pending U.S. Patent Application.

Third Disclosure Statement for U.S. Patent Application entitled
Method for Utilizing Excess Communications Capacity
USSN 09/688,997
HMD2000-1-CIPA
Page 2

DISCLOSURE DOCUMENTS

I. Disclosure History

The Applicants disclosed the following documents in their Second Disclosure
Statement:

- U.S. Patent No. 5 864 557 issued to Lyons discloses a transport stream encoder, which comprises a plurality of component signal sources.
- U.S. Patent No. 5 406 626 issued to Ryan discloses a radio receiver for information dissemination using sub-carrier.
- U.S. Patent Application No. 2002/004 2919 is a Pending Continuation-in-Part Patent Application filed by the Assignee of the Present Application, and has a filing date later than the Present Application.
- U.S. Patent No. 6 029 045 issued to Picco discloses a System and Method for Inserting Local Content Into Programming Content.
- U.S. Patent No. 6 366 761 issued to Montpetit discloses a Priority Based Bandwidth Allocation and Bandwidth-on-Demand in a Low-Earth-Orbit Satellite Data Communication Network.

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Third Disclosure Statement for U.S. Patent Application entitled Method for Utilizing Excess Communications Capacity USSN 09/688.997 HMD2000-1-CIPA Page 3

U.S. Patent No. 5 652 795 issued to Dillon discloses a Method and Apparatus for an Adapter Card Providing Conditional Access in a Communication System.

PCT International Patent Application Publication No. WO 97/18651 owned by Hughes Aircraft Company discloses a method and apparatus for an adaptor card for use in a computer to provide conditional access by the computer to incoming data streams.

II. Parallel Prosecution of Related U.S. & European Patent Applications

A. Related US Patent Application USSN 09/579,324

Since the Applicants submitted their Second Disclosure Statement, the U.S. Patent Office has cited additional documents against the Pending Claims of a Related U.S. Patent Application USSN 09/579,324. In a First Office Action dated 2 October 2003 Examiner Anh Vu H. Ly rejected the Pending Claims of USSN 09/579,324 under Section 102 based on Picco 045, which was disclosed by the Applicants in the Second Disclosure Statement for the Present Application. After the Applicants submitted a First Amendment for USSN 09/579,324, Examiner Ly withdrew the Section 102 rejection, and issued a Section 103 rejection based on Picco 045 and Fenwick US2003/0204852. The Examiner also cited White US2003/018587. The Applicants then submitted a Request for Reconsideration on 24 August 2002, traversing the Section 103 rejection. A PTO Form SB/08A is enclosed which lists the two new documents, Fenwick and White.

Third Disclosure Statement for U.S. Patent Application entitled Method for Utilizing Excess Communications Capacity USSN 09/688,997 HMD2000-1-CIPA Page 4

2005/014

B. Related European Patent Application No. 01 939 003

The Applicants also submit a copy of the PCT International Search Report dated 22 January 2004 which is the basis for current prosecution before the European Patent Office for EP Application No. 01 939 003. The European Examiner has cited Lyons and Hughes Aircraft, which the Applicants disclosed in their Second Disclosure Statement for the Present Application.

Third Disclosure Statement for U.S. Patent Application entitled Method for Utilizing Excess Communications Capacity USSN 09/688,997 HMD2000-1-CIPA Page 5

CONCLUSION

A completed PTO/SB/08A accompanies this Third Disclosure Statement.

The Applicants submit that none of the documents described above disclose the Invention as claimed in the present Patent Application. The Applicants believe that no fee is required to submit this Third Disclosure Statement.

Respectfully submitted,

Thomas N. Giaccherini,

Applicants' Attorney

Registration No. 31,075

Thomas N. Giaccherini

Post Office Box 1146

Carmel Valley, California 93924

831.659.5300

techlaw@ix.netcom.com

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FOREIGN PATENT DOCUMENTS							
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